

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

MD MALL ASSOCIATES, LLC, t/a	:	
MacDade Mall Associates, L.P.,	:	
Plaintiff	:	
v.	:	C.A. No. 2:11-cv-04068-JS
CSX TRANSPORTATION, INC.,	:	
Defendant	:	

**JOINT EXHIBIT LIST<sup>1</sup>**

NO.	DESCRIPTION	ADMITTED	NOT ADMITTED
1	Curriculum Vitae of Dr. Frank X. Browne, Ph.D., P.E.		
2	3/28/14 Frank X. Browne, Ph.D., P.E., Expert Report including: <ol style="list-style-type: none"> <li>1. USGS Chester Quadrangle, 1898</li> <li>2. Cross-sectional Views of CSX and Mall Property (Figures 2 through 4)</li> <li>3. CSX Transportation Standard Roadbed and Ballast Drawing</li> <li>4. Kelly &amp; Close Cross Section Alignment Plan</li> <li>5. Kelly &amp; Close Cross Section Plan</li> <li>6. Off-Site Drainage Areas</li> <li>7. Photographs 1 through 13</li> </ol>		
3	Site Photographs produced by Dr. Browne (Browne Dep. Ex. 4 and 5)		
4	Local Climatological Data 2009 through 2012 (Browne Dep. Ex. 6)		
5	3/17/14 Browne Calculations (Browne Dep. Ex. 7)		
6	6/1/07 CSX Transportation Standard Specifications (Browne Dep. Ex. 8)		
7	Curriculum Vitae of James P. Kelly, P.E.		

<sup>1</sup> Defendant's Exhibit List begins at number 51.

<b>NO.</b>	<b>DESCRIPTION</b>	<b>ADMITTED</b>	<b>NOT ADMITTED</b>
8	3/28/14 James P. Kelly, P.E., Expert Report including: <ol style="list-style-type: none"> <li>1. Kelly &amp; Close Topographic and Location Plan</li> <li>2. Kelly &amp; Close Cross Section Plan</li> <li>3. Kelly &amp; Close cross Section Alignment Plan</li> <li>4. Kelly &amp; Close Cross Section Plan</li> </ol>		
9	Kelly & Close Field Notes and Dye Test Results including: <ol style="list-style-type: none"> <li>1. Precipitation record from AccuWeather.com</li> <li>2. Site Plan</li> <li>3. Photographs</li> </ol>		
10	Video of Kelly & Close Dye Test		
11	Photographs produced by James Kelly (Kelly Dep. Ex. 1)		
12	c. 4/30/14 Photographs of flooding at Mall property on 4/30/14		
13	5/1/14 Photographs of site		
14	5/16/14 Photographs of site		
15	5/29/14 Affidavit of Franke X. Browne, Ph.D., P.E. (including exhibits)		
16	3/9/12 Joint Stipulation as to Facts Regarding Defendant's Engagement of Arcadis US, Inc.		
17	6/30/1917 Baltimore and Philadelphia Railroad Co. Right of Way and Track Map, plotted 4/4/11		
18	1964 Department of Highways Construction Drawings		
19	1975 Site Drainage Plan for MacDade Mall prepared by Catania Engineering and Associates, Inc. with stamp of James C. Kelly, P.E.		
20	12/29/1989 CSX Transportation, Inc. Certificate of Merger		

<b>NO.</b>	<b>DESCRIPTION</b>	<b>ADMITTED</b>	<b>NOT ADMITTED</b>
21	1999 Deed for MacDade Mall property		
22	8/3/2001 ALTA/ASCM Survey Plan for MacDade Mall		
23	2003-2011 CSX Maintenance Record for site (Helene Dep. Ex. 2)		
24	10/29/10 William Dion's first letter to CSX with photographs of site		
25	10/29 – 10/30/2010 photographs of site (Lackford Dep. Ex. 4)		
26	1/13/11 William Dion's second letter to CSX with photographs of site		
27	1/20/11 Jeremy Helene's email to Paula Allen (Helene Dep. Ex. 8)		
28	1/20/11 Jeremy Helene's email to Kandria James (Helene Dep. Ex. 9)		
29	4/7/11 Photographs of cleared out eroded channel (Lackford Dep. Ex. 6)		
30	4/19/11 John Fiore, Jr.'s letter to Jeremy Helene with photographs (Helene Dep. Ex. 12)		
31	4/19/11 Photographs of site (Lackford Dep. Ex. 5)		
32	6/3/11 Photographs of site taken by Arcadis US, Inc.		
33	8/22/11 Plaintiff's Amended Complaint		
34	9/8/11 Photographs of site		
35	10/3/11 Defendant's Rule 26 Disclosures		
36	10/13/11 Defendant's Answers to Plaintiff's Request for Production of Documents		
37	11/18/11 Deposition Transcript of Jeremy Helene (including all exhibits) (in Volume II)		
38	11/21/11 Defendant's Answers to Plaintiff's Interrogatories		
39	11/21/11 Defendant's Answers to Plaintiff's Second Request for Production of Documents		

<b>NO.</b>	<b>DESCRIPTION</b>	<b>ADMITTED</b>	<b>NOT ADMITTED</b>
40	11/22/11 Court Order		
41	12/6/11 Deposition transcript of William Parry (including all exhibits) (in Volume II)		
42	12/7/11 Deposition transcript of David Lackford (including all exhibits) (in Volume II)		
43	2/27/12 Transcript of Oral Argument on Motion for Summary Judgment		
44	3/9/12 Court Order		
45	10/7/13 Court Order		
46	11/25/13 CSX's Responses to Plaintiff's Requests for Admission		
47	1/7/14 Court Order		
48	12/30/13 CSX's Responses to Plaintiff's Second Request for Production of Documents		
49	1/23/14 Court Order		
50	Photographs of Site		
50A	Google Map of MacDade Mall		
50B	James Kelly Sketch of Inlet and Pipe		
50C	Jeffrey Bross Deposition Transcript 4/8/14		
51	6 Pictures (Bross 11)		
52	Ariel Photograph of the Mall, Railroad tracks and surrounding areas		
53	Pennsylvania Utilities Commission Application Order (Certified)		
54	Proposed Shopping Plans		
55	March 12, 2012 Reconsideration Hearing		
56	Track Maintenance Records (January 1, 1982 – January 17, 2012)		

<b>NO.</b>	<b>DESCRIPTION</b>	<b>ADMITTED</b>	<b>NOT ADMITTED</b>
57	Picture (Bross Report 10)		
58	Picture (Bross Report 2)		
59	Arcadis Simplified work order		
60	Picture (Bross Report 8)		
61	Picture (Bross Report 9)		
62	Lakeland Survey		
63	National Climatic Data Center Records		
64	February 3, 2012 Affidavit of Dave Lackford		
65	February 3, 2012 Affidavit of Tom Lancaster		
66	Browne Soil Survey		
67	Expert Report of Jeffrey Bross		
68	Picture (Bross Report 1)		
69	Picture (Bross Report 1A)		
70	Picture (Bross Report 3)		
71	Picture (Bross Report 4)		
72	Picture (Bross Report 5)		
73	Picture (Bross Report 6)		
74	Picture (Bross Report 7)		
75	Motion for Summary Judgment Transcript, July 24, 2014		
76	Browne's Hand drawing (Browne 3)		

NO.	DESCRIPTION	ADMITTED	NOT ADMITTED
77	05/01/2014 Philly.com News Article - Widespread Flooding; 04/13/2014 Delco Times News Article re: flood Darby Borough; 05/01/2014 ABClocal news article Re: heavy rain across Delaware Valley; 05/01/20104 Bizjournals – Mayor Nutter; 7 <sup>th</sup> worst rain storm		
78	Supplemental Expert Report of Jeffrey Bross		
79	Pictures (May 1, 2014)		
80	Pictures (May 1, 2014)		
81	Pictures (May 1, 2014)		
82	Browne Report dated January 13, 2012		
83	Browne Deposition (April 14, 2014)		
84	Browne Deposition (February 8, 2012)		
85	Kelly Deposition (April 16, 2014)		

Respectfully submitted,  
MD MALL ASSOCIATES, LLC  
Trading as MacDade Mall Associates, L.P.,  
By their attorneys,

Respectfully submitted,  
CSX Transportation, Inc.,  
By their attorneys,

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